

ORIGINAL RECEIVED

ORIGINAL
FILE

JAN 4 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Proposed Rules for Implementing)
the Cable Television Consumer)
Protection and Competition Act)
of 1992)

MM Docket No. 92-259

To: The Commission - MAIL STOP 1170

COMMENTS OF THE NATIONAL CAPTIONING INSTITUTE, INC.

Introduction

1. The National Captioning Institute, Inc. ("NCI") hereby submits its comments in response to the proposed policies and rules governing implementation of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act"), proposed in the Commission's Notice of Proposed Rule Making ("Notice") in MM Docket No. 92-259, FCC 92-499, released November 19, 1992. NCI urges the Commission to adhere closely to statutory admonitions to ensure the delivery by cable television systems of captions for deaf and hard-of-hearing persons at all times as new cable television technologies progress and develop.

2. NCI is a nonprofit corporation created by Congress in 1979 and is the leading organization providing captioning services to the television industry. NCI has also spearheaded the development of captioning equipment and for the past twelve years was the sole manufacturer of closed-captioned decoders (Telecaption™) to the

No. of Copies rec'd
List A B C D E

044

consumer market. NCI also developed integrated circuit technology for use in television receivers compliance with the Television Decoder Circuitry Act of 1990 ("Decoder Act"). NCI has for the past decade worked closely with the television broadcasters and cablecasters in resolving the myriad of technical issues that affect the transmission and reception of closed-captions for hard-of-hearing and deaf cable subscribers.

3. Both the Decoder Act and the closed-captioned carriage provisions of the Cable Act read together to mandate that deaf and hard-of-hearing cable subscribers continue to have access to all Line 21 closed captions received by cable operators at the headend, and the Commission must implement its carriage regulations in a manner to ensure achievement of these requirements.^{1/} Section 74.606 of the Commission's Rules properly establishes clear obligations not to remove or alter captions until July 1, 1993, and to deliver Line 21 closed-captioning data intact after that date. This rule must be left undisturbed and must be interpreted to treat Line 21 captions as an integral part of the carriage obligation for any television signal carried on a cable system, whether it is carried as a "must carry" signal or on the basis of retransmission consent.^{2/}

**The Commission's Implementation of the Cable Act's
Line 21 Closed-Caption Transmission Carriage Provisions
Must in No Way Undermine the Public's Statutory
Right To Have Access to Line 21 Closed-Captions**

4. Congressional action has made it clear that deaf and hard-of-hearing viewers have a statutory right to have access to Line 21 closed captions created for television programs. The Decoder Act reflects popular support and a Congressional decision to enable deaf and hard-of-hearing people and others to have the means through which access to closed captions is gained. The Cable Act's Line 21 mandatory carriage provisions further reflect the decision of the public, expressed through the Congress, that access to captions is as critical as access to the picture and sound. The Commission reached the same conclusion when it adopted Section 74.606 of its Rules.

**Section 74.606 Governing Delivery of Line 21 Closed-Captioned Data
Must Be Retained and Applied to All Technologies**

5. Given the clear Congressional mandate and the Commission's previous confirmation thereof, Section 74.606 of the Rules must be kept intact and must be construed to require the delivery of Line 21 closed captions, intact, any time they are received that way at the headend of a cable system, regardless of the source. There is no justification for construing the Cable Act's Line 21 provisions any more narrowly. The Congressional mandate, taken as a whole, applies to all television signals of any kind delivered via cable.

This mandate and the Commission's Rule apply no matter what technology is used within the cable plant, including the new digital video compression systems that are soon to be implemented to increase channel capacity.

The Commission Should Include the Cable Act's Line 21 Carriage Requirements as Part of Its Must-Carry Rules

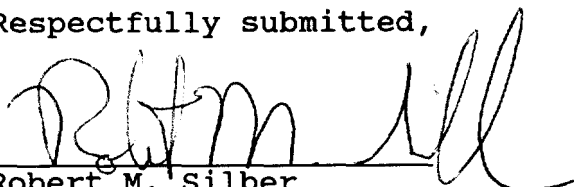
6. When the Cable Act requires the carriage of a television signal, it requires carriage of primary video, audio, and Line 21 closed captions.^{3/} While the Decoder Act may be construed to create rights on the part of viewers, the Cable Act establishes obligations of cable operators in favor of broadcasters. The Commission should include carriage of Line 21 captions in the must-carry section of its rules to ensure that both broadcasters and cable subscribers have a right to complain and to seek remedial action by the Commission if a cable system damages or deletes closed-captioning data. That way, there will be a comprehensive regulatory scheme that ensures fulfillment of the overall Congressional mandate.

Conclusion

7. The Commission currently has a clear regulation on the subject of Line 21 closed captions that adequately and clearly expresses the Congressional determination that captions be delivered to the public whenever they are delivered to the headend

of a cable system. That rule should be kept intact and applied to all cable technologies. In addition, captioning requirements should be specifically included in the must-carry rules, to enable broadcasters to take legal action when and as necessary to ensure that all members of the public receive their captioning services and so that broadcasters do not have to petition separately under Section 74.606 to have captions included when seeking must-carry relief.

Respectfully submitted,



Robert M. Silber
Corporate Attorney

National Captioning
Institute, Inc.
5203 Leesburg Pike, 15th Floor
Falls Church, VA 22041
(703) 998-2460

^{1/} Closed captions are textual representations of a television program's soundtrack that are encoded into the television broadcast signal. See Section 73.682(a)(22)(i) of the Commission's Rules.

^{2/} Section 76.606 of the Rules is not limited to cable carriage of broadcast programming. It applies to all video programming delivered via cable and should continue to apply to all programming. Only broadcast programming is discussed here, because broadcast programming is the only subject of the instant rule making.

^{3/} Section 614(b)(e)(A) of the Cable Act; Par. 32 of the Notice.